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REMARKS

Claims 1, 2, 4, 5, 7-11, 13, 14, 16-20 and 23-27 are currently pending in the subject application and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

I. Rejection of Claims 1, 10 and 19 Under 35 U.S.C. §102(e)

Claims 1, 10, and 19 stand rejected under 35 U.S.C. §102(e) as being anticipated by Peterson (US 6,411,742). Withdrawal of this rejection is respectfully requested for at least the following reasons. Peterson does not disclose or suggest each and every limitation set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaa Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). *The identical invention must be shown in as complete detail as is contained in the ... claim*. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Applicants' claimed invention relates to an apparatus and method that reduces the time required to process and store an image on a storage medium in a digital imaging device, thereby enabling the digital imaging device to capture multiple images rapidly by decreasing the time period between capturing a first image and being prepared to capture another image. To this end, independent claim 1 recites: *upon completion of storing of respective image segments, stitching together the image segments within the persistent storage medium to reconstruct the captured digital image*. Independent claims 10 and 19 recite similar aspects. Peterson does not disclose or suggest these novel aspects of the invention as claimed.

Peterson discloses blending multiple images to form a composite panoramic image. The Examiner asserts that the cited document discloses the novel features of applicants' claimed invention at figure 2a and items 14 and 16 in figure 1. Applicants' representative disagrees. Figure 1 of the cited document and its associated text, at col. 3,

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lines 28-39, states that a user activates a scanner through utilization of a keyboard or pointing device thereby causing a scanner to scan and transmit images to image capture software. The image capture software thereupon conveys the captured images to image stitching software which blends the images together to form a panoramic image that is displayed on a monitor or printed on a printer. The passage further discloses that the panoramic image so created can also be stored within a storage medium or transmitted to a remote location over computer network. It is clear that the cited document utilizes the stitching software prior to displaying and/or persisting the stitched panoramic image. Moreover, the text associated with figure 2a, *i.e.*, col. 3, lines 40-51, discloses that the images depicted therein illustrate overlapping segments of a view that are common to all the images that are to be stitched by the stitching software. The invention as claimed, in contrast, discloses that upon completion of storing of respective image segments that the image segments so stored are stitched together within the persistent storage medium in order to reconstruct the captured digital image. It is submitted that the distinction between the cited document and applicants' claimed invention lies in the fact that the invention as claimed performs stitching of the image segments once the image segments are persisted on the storage medium, whereas the cited document performs stitching prior to persisting the blended/stitched images onto storage media.

In addition, the Examiner is reminded that the standard by which anticipation is to be measured is *strict identity* between the cited document and the invention as claimed, not mere equivalence or similarity. *See, Richardson* at 9 USPQ2d 1913, 1920. This means that in order to establish anticipation under 35 U.S.C. §102, the single document cited must not only expressly or inherently describe each and every limitation set forth in the patent claim, but also the identical invention must be shown in as complete detail as is contained in the claim. Peterson does not disclose, teach or suggest the storage of image segments onto storage medium prior to stitching the image segments so stored to reconstruct the captured image. Thus, in the final analysis it is submitted that Peterson does not provide an invention identical to that recited in the subject claims.

In view of the foregoing, it is readily apparent that Peterson does not anticipate or make obvious applicants' claimed invention as recited in the subject claims.

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Accordingly, withdrawal of this rejection with respect to independent claims 1, 10 and 19 is requested.

II. Rejection of Claims 1-2, 4, 8-11, 13, 17-20 and 23 Under 35 U.S.C. §103(a)

Claims 1-2, 4, 8-11, 13, 17-20, and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yajima (US 5,809,176) in view of Peterson (US 6,411,742).

This rejection should be withdrawn for at least the following reasons. Yajima and Peterson, either alone or in combination, do not teach or suggest all aspects recited in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. See MPEP §706.02(j). The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must be found in the prior art and not based on the Applicant's disclosure*. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

As noted *supra*, independent claims 1, 10 and 19, recite similar features, namely: storing each of a plurality of processed image segments on *a persistent storage medium*, and as the processed image segments are stored on the storage medium *stitching together the image segments within the persistent storage medium to reconstruct the captured digital image*. Peterson does not disclose or suggest such novel aspects of the invention as claimed and in fact the cited document appears to teach away from the claimed invention. Further, Yajima fails to cure the deficiencies of Peterson.

Yajima pertains to image data encoding and decoding devices and processes that employ fast, efficient arithmetic coding techniques. The Examiner asserts that the cited

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document discloses the novel aspect of the invention as claimed at col. 11, line 21 and 30-34. Applicants' representative disagrees. The cited passages disclose that a data distributor divides input image data into a plurality of individual data streams. The individual data streams are then output to arithmetic encoders. (*See*, col. 11, lines 18-21). The arithmetic encoders are controlled by a synchronizing controller and perform parallel operations dictated by predetermined timing parameters. The arithmetic encoders encode the individual data streams sent to them and output individual encoded data streams which, in turn, are respectively provided to memory in sequence through output interfaces and are stored thereon. (*See*, col. 11, lines 30-38). It would appear therefore that in Yajima the output encoded data streams are provided to memory and/or stored to storage medium only after the individual of input data streams have been encoded and/or processed.

In applicants' claimed invention, the plurality of processed image segments are directed onto the persistent storage medium whereupon the processed image segments are stitched together within the storage medium to reconstruct the image, *i.e.*, the processed image segments are stitched together subsequent to storage on the storage medium. The invention as claimed therefore mitigates the latency associated with image preprocessing and waiting to write image data to persistent storage medium – the invention allows for concurrently processing image segments, writing processed image segments to a persistent storage medium and then stitching such segments together within the storage medium upon respectively being stored as compared to waiting until the image has been completely preprocessed and stitched before storing/saving the preprocessed image to a storage medium.

In fact, Yajima teaches exactly the problem that applicants' invention strives to mitigate. The cited reference teaches completing all processing, stitching and reconstitution of the image prior to the storage of the processed, stitched and reconstituted image onto the storage medium. (*See*, col. 21, lines 44-49). It is submitted therefore, that any storage of segments and stitching thereof, regardless of whether it is to temporary memory (cache) and/or persistent memory, is performed prior to the storage and stitching of the segments. Thus, the issue of waiting for an entire image to be processed and stitched prior to writing to persistent memory and/or temporary memory

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remains unresolved with the system of Yajima.

The Examiner in the Response to Arguments section of the Office Action dated July 26, 2005, contends that there is no distinction between the stitching of image segments, as disclosed in Yajima, done prior to sending the processed and stitched image in its entirety to the storage medium, and the stitching of image segments done once the image segments have been persisted on the storage medium as disclosed in applicants' claimed invention. Applicants' representative respectfully disagrees. The patentable distinction that is evident, and one that the Examiner clearly recognizes, identifies and emphasizes is that Yajima fails to provide stitching of image segments once the image segments have been stored on the storage medium as recited in the subject application.

In view of the foregoing, it is readily apparent that Yajima perpetuates the problem applicant's invention seeks to cure. Moreover, the combination of Peterson, for reasons stated above, and Yajima, either alone or in combination, do not teach or suggest the novel features of the invention as claimed. Accordingly, withdrawal of the rejection of independent claims 1, 10 and 19 (and associated dependent claims) is requested.

III. Rejection of Claims 5, 7, 14, 16 and 24-27 Under 35 U.S.C. §103(a)

Claims 5, 7, 14, 16, and 24-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yajima (US 5,809,176) in view of Peterson (US 6,411,742) as applied to claims 1-2, 4, 8-11, 13, 17-20, and 22-23 above, and further in view of Ise *et al.* (US 5,140,647). Withdrawal of this rejection is requested for at least the following reasons. Claims 5, 7, 14, 16 and 24-27 depend from independent claims 1, 10 and 19 and Ise *et al.* does not cure the deficiencies with respect to Peterson and Yajima. Accordingly, the rejection of claims 5, 7, 14, 16 and 24-27 should be withdrawn.

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CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063[MSFTP1005].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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